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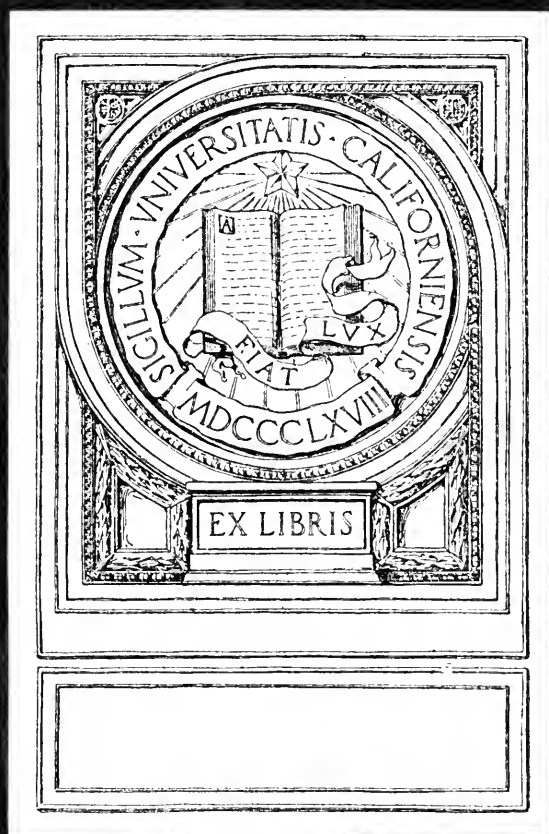
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NATIONAL ASSOCIATION FOR THE FEEBLEMINDED

Denison House, 296, Vauxhall Bridge Road, Westminster, S.W.

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LEGISLATION FOR THE FEEBLE-MINDED.

By Miss A. H. P. KIRBY.

Secretary to the National Association for the Feeble-minded.

The Mental Deficiency Act, 1913, may be described as one of the only examples of English legislation which, in promoting schemes for social welfare, takes into consideration the influence of heredity.

In order to realize the opportunities for racial betterment which this Act offers, and to secure the social and moral improvement which will inevitably ensue, if it in any degree carries out the aims and objects of its promoters, the active and intelligent co-operation of all members of the community is necessary, whatever be their social rank, and whether their status be that of official, or ordinary citizen.

The Act opens with a series of definitions. It will be noted that lunatics are excluded, and also that the Idiots Act is repealed, and its provisions amalgamated with the Mental Deficiency Act.

It would be well for every public official and social worker to commit the wording of these definitions to memory, in order that the mentally defective may not pass unrecognized, and be, in consequence, committed to unsuitable institutions, submitted to inappropriate treatment; and discharged; his mental abnormality still remaining undiscovered and ignored.

Definition.

The four classes of mental defectives within the meaning of the Act are described as follows:—

(1) *Idiots*; that is to say, persons so deeply defective in mind from birth or from an early age as to be unable to guard themselves against common physical dangers.

(2) *Imbeciles*; that is to say, persons in whose case there exists from birth or from an early age mental defectiveness not amounting to idiocy, yet so pronounced that they are incapable of managing themselves or their affairs, or, in the case of children, of being taught to do so.

(3) *Feeble-minded Persons*; that is to say, persons in whose case

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there exists from birth or from an early age mental defectiveness not amounting to imbecility, yet so pronounced that they require care, supervision, and control for their own protection, or for the protection of others, or, in the case of children, that they by reason of such defectiveness appear to be permanently incapable of receiving proper benefit from the instruction in ordinary schools.

(4) *Moral Imbeciles*; that is to say, persons who from an early age display some permanent mental defect coupled with strong vicious, or criminal propensities, on which punishment has had little or no deterrent effect.

The scheme of provision under the Mental Deficiency Act is based upon the assumption that a defective person is one who remains mentally immature, and in need, therefore, of the permanent care and protection which should be the natural right of every child during immature years.

The Act consists of four parts, which treat of the following subjects : (I) Of the power and manner of dealing with defectives. (II) Of the central and local authorities. (III) Of certification and provision of Institutions, &c. (IV) Of offences under the Act, legal proceedings and miscellaneous matters.

The Administration of the Act.

This is divided between two authorities, central and local.

(1) *The Central Board of Control* is the supreme authority. It consists of fifteen Commissioners, of whom twelve are paid; of the paid Commissioners four are to be legal, and four, at least, medical Commissioners, while one, at least, is to be a woman. One of the unpaid Commissioners also must be a woman. The Lunacy Commissioners cease to exist; the paid Commissioners are transferred to the Board of Control.

The Board of Control will supervise the local authorities; exercise general supervision, protection and control over defectives; supervise the administration by local authorities of their powers and duties under this Act; certify, approve, supervise and inspect institutions, houses and homes; visit, through Commissioners or inspectors, defectives in institutions, homes, or under guardianship; provide and maintain institutions for defectives of dangerous or violent propensities; administer grants of money provided by Parliament under this Act; inspect every certified institution, house and approved home at least once in each year, and, either through themselves or inspectors, inspect every certified institution,

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certified house, and approved home one additional time in each year, also inspect every defective under guardianship at least twice in every year. A Commissioner has power to discharge a detained person at any time.

(2) *The Local Authority* is the county council, or, as respects a county borough, the council of the borough. Every local authority is to constitute a *Committee for the Care of Defectives*. This committee will consist of either (1) members of the council (who must be in majority), together with other non-members of council, Poor Law Guardians, or other persons with special knowledge and experience of mental defectives, some of whom must be women; or (2) if the Council so determine, the visiting or asylums committees under the Lunacy Acts (1890-1911), with the addition of at least two women.

All local powers, except the power of raising a rate or borrowing money, stand referred to this committee.

Their duties are: (a) to ascertain what persons within their area are defectives subject to be dealt with under this Act; (b) to provide suitable supervision, or take steps for securing that they shall be dealt with by being sent to institutions; (c) to provide suitable and sufficient accommodation for such persons when sent to certified institutions; (d) to make provision for their guardianship; (e) or to maintain them in an institution, or approved home, or contribute towards the expenses of maintenance or of guardianship.

Nothing in the Act imposes any obligation on a local authority to provide guardianship, supervision, or accommodation in institutions, or to employ officers to assist in performance of duties under the Act, where the contribution out of moneys provided by Parliament towards the cost on income account of performing such duties is less than one half of the net amount of such cost.

It is apparently incumbent on them, however, to ascertain what persons in their area are defectives, subject to be dealt with under the Act, under Section 2, i. (B), i.e., as having come in contact with the law, and permissive for them to maintain defectives in institutions or approved homes, or deal with them by way of guardianship.

(a) *Poor Law Authorities*.—Nothing in this Act shall affect the powers and duties of these authorities with respect to defectives dealt with under Acts relating to the relief of the poor; nor their right to receive the same grants for defectives as they would have received if the Idiots Act, 1886, had not been repealed.

(b) *Local Authorities and Lunacy Acts, 1890 to 1911*.—The powers

and duties of local authorities under these Acts remain as they were, modifiable to such an extent as may be prescribed by regulations made by the Secretary of State, with the concurrence of the Lord Chancellor.

(c) *The Local Education Authorities* are to ascertain what children over 7 or under 16 within their area are defective within the meaning of the Act; to ascertain which children are incapable of receiving benefit from instruction in special schools; and to notify to the local authority the names of such children, also of those whose special circumstances render it desirable that they should be dealt with by supervision or guardianship; also of children, on or before attaining the age of 16, who are about to be withdrawn or discharged from special schools, in whose case the local education authority are of opinion that they should be placed in an institution or under guardianship.

Methods of Supervision and Accommodation.

(1) *By Institutions and Homes.*

(a) *The Board of Control* may establish "*State Institutions*" for defectives of dangerous and violent propensities.

(b) *The Local Authority* may either establish *certified institutions* or contract with certified institutions for the maintenance of defectives.

(c) *Boards of Guardians* providing institutions may, by application to the local authority, and "if approved" by the Board of Control, have their establishments treated as certified institutions.

(d) *Certified Houses.*—Persons desirous of receiving defectives for private profit may apply to the Board for a certificate, and any defective who may be ordered to be sent to an institution under this Act may be placed in a certified house, but no part of the money provided by Parliament shall be applied towards the expenses of defectives in certified houses.

Institutions may be certified by application of their managers to the Board of Control.

(e) *Approved Homes.*—The managers of any homes supported wholly or partly by voluntary contributions, or by applying the excess of payments of some patients towards the support of others, may apply to the Board to approve the premises; but it shall not be lawful to receive in an approved home any person ordered to be sent to an institution under order of the judicial authority, or a court, or the Secretary of State under the Act.

Single Cases.—It is unlawful, without the consent of the Board, to

undertake the care and control of more than one person who is defective, elsewhere than in an institution, certified house, or approved home.

(2) *Guardianship*.—A judicial authority may, if he thinks desirable, make an order appointing a suitable person to be guardian of a defective, who shall, subject to the regulations to be made by the Secretary of State, stand *in loco parentis*.

It should be noted that there is nothing in the Act to prevent one institution being in part "certified" and in part "approved."

Class of Defective subject to Control.

Not all persons classifiable under the definitions of the Act become subject to be dealt with by the Act by being placed in an institution or under guardianship.

Defectives may be placed in an institution or under guardianship (1) at the instance of parent or guardian, if idiots or imbeciles; or at the instance of their parents only, if though neither idiot or imbecile they are mentally defective and under the age of 21; or (2) notice may be given by the local education authority to the local authority under the Act, in the case of all defective children over the age of 7—(a) who are incapable by reason of mental defect of receiving benefit in special schools or classes, or as respects whom the Board of Education certify that there are special circumstances which render it desirable that they should be dealt with under this Act by way of supervision or guardianship; or (b) who on or before attaining the age of 16 are about to be withdrawn or discharged from a special school, and in whose case the local education authority are of opinion that it would be to their benefit to be sent to an institution or placed under guardianship.

Defectives other than idiots or imbeciles over the age of 21 can only be "dealt with" if they are (1) found neglected, abandoned, or without visible means of support, or cruelly treated; or (2) found guilty of any criminal offence; or ordered, or found liable to be ordered, to be sent to a certified industrial school; (3) undergoing imprisonment (except imprisonment under civil process) or penal servitude, or undergoing detention in a place of detention by order of a court, or in a reformatory or industrial school, or in an inebriate reformatory, or detained in an institution for lunatics, or a criminal lunatic asylum; or (4) habitual drunkards within the meaning of the Inebriates Acts, 1879 to 1900; or (5) in receipt of poor relief at the time of giving birth to an illegitimate child, or when pregnant of such child.

Method of Placing a Defective under Detention.

(1) *Power of obtaining certificates for detention* is granted to parents of defectives under 21 years.

This certificate must be signed by two qualified medical practitioners (one of whom must be approved for the purpose by the local authority or the Board of Control), and signed by the judicial authority, after proper inquiry. In cases of idiocy or imbecility the parent *or guardian* may apply for certificate, and the signature of the judicial authority is not necessary, and there is no limit in regard to age.

(2) The defective may be dealt with (a) under an order made by a judicial authority on petition of any relative or friend of the defective or authorized officer of the local authority; or (b) under an order of a court, in the case of a defective found guilty of a criminal offence, punishable in the case of an adult with imprisonment or penal servitude, or liable to be ordered to be sent to an industrial school; or (c) under an order of the Secretary of State, in the case of a defective detained in a prison, criminal lunatic asylum, reformatory, or industrial school, place of detention, or inebriate reformatory.

Duration of Detention.—The certificate is renewable at the expiration of the first and the second year of detention, and thereafter at successive periods of five years.

Safeguards against wrongful detention are amply provided for:—

(1) At the periodical renewal of certificate.

(2) By the section making it the duty of the Board, through one or more Commissioners, to inspect every certified institution, certified house and approved home at least once in each year, and either through themselves or inspectors to inspect every certified institution, certified house, and approved home, one additional time in each year, also to inspect every defective under guardianship at least twice in every year.

A defective placed in an institution or under guardianship, by a parent or guardian, may be withdrawn at any time by such parent or guardian unless considered by the Board inadvisable in the interests of the defective.

Finance.—Sums not exceeding an aggregate amount of £150,000 yearly may be paid, with the approval of the Treasury, towards the expenses of any persons detained in certified institutions or placed under guardianship, and towards other expenses incurred by local authorities under the Act. The expenses of a local authority shall be defrayed, in the case of a county council, out of the county fund

and of a county borough council out of the borough fund or borough rate; such expenses shall not exceed an amount equal to one halfpenny in the pound.

General regulations as to the granting, renewal, revocation of certificates for institutions; their management; the classification and treatment of patients; inspection; the powers and duties of persons appointed guardians; approval of homes and other matters are issued by the Secretary of State; such regulations, before they have effect, must be laid before Parliament for thirty sitting days.

It is important to note that acts of sexual immorality against defectives are now punishable by terms of imprisonment, with or without hard labour, not exceeding two years; and Section 10 of the Criminal Law Amendment Act, 1885, applies to defective girls or women, as in the case of any girl under 16 years.

After the passing of this Act no person will be disfranchised by reason of the maintenance in an institution, or under guardianship, of a defective for whom he is responsible.

*Offices of the National Association for the Feeble-minded,
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